

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

PERNOD RICARD USA, LLC.,

Plaintiff,

v.

BACARDI U.S.A., INC.,

Defendant.

C.A. No. 06-505 (\$LR)

DECLARATION OF JOHN GOMEZ

I, John Gomez, of full age, hereby declare as follows:

1 I am Vice President and Group Marketing Director of defendant Bacardi U.S.A., Inc. ("Bacardi") in this action. I make this Declaration in support of Defendant's Motion to Transfer Venue to the Southern District of Florida.

2 Bacardi's HAVANA CLUB rum is presently sold only in the state of Florida. It is not sold in the state of Delaware.

3 Bacardi's HAVANA CLUB rum is distilled in Puerto Rico, based on a recipe provided to Bacardi by the Arechabala family, which manufactured HAVANA CLUB rum both in Cuba and Puerto Rico before 1960. Bacardi's HAVANA CLUB rum is bottled in Jacksonville, Florida, and shipped only to distributors in Florida. Bacardi's product is not manufactured in, nor is it shipped through, the state of Delaware.

4 All of Bacardi's executive offices and business operations relating to the development, marketing and sale of its HAVANA CLUB rum are based out of Miami, Florida. Bacardi has no offices, business locations, or employees in Delaware that have any connection to

the development, marketing or sale of the HAVANA CLUB rum product. Substantially all of Bacardi's documents and other materials relating to its HAVANA CLUB rum are kept in Bacardi's Miami, Florida offices. Bacardi's affiliates in Jacksonville, Florida and Puerto Rico also have documents relating to the production and bottling of HAVANA CLUB rum. While Bacardi distributes certain other products to wholesalers in Delaware, transfer of title to those products occurs outside the state. Bacardi's HAVANA CLUB rum is not distributed in the state.

5 The press release attached to the Complaint in this action as Exhibit C was issued in Miami, Florida by Bacardi-Martini Inc.'s corporate communications department, and written and developed by Bacardi and its Miami-based affiliates.

6 The interview with me attached to the Complaint in this action as Exhibit D was conducted by telephone. I was in Miami, Florida, at the time I gave this interview

7 At trial, Bacardi believes it would have to rely on testimony from the following employees about the following subjects. All of them work and reside in the Miami, Florida area

A) Myself. I work and live in the Miami area and supervise the marketing of Bacardi's HAVANA CLUB rum. I would provide testimony about Bacardi's marketing of and advertising for its HAVANA CLUB rum made the statements in the interview attached to the Complaint as Exhibit D, which Plaintiff alleges are false. I would also provide testimony concerning the factual nature of the statements made during the interview and the steps taken by Bacardi to ensure that its advertising statements concerning HAVANA CLUB rum are correct. All of my files relating to HAVANA CLUB rum are located in Miami.

B) Cathy Bayer, Marketing Research Director, who works and lives in the Miami area, supervised marketing research which was used in the development of Bacardi's HAVANA CLUB rum, and would provide testimony about the marketing research conducted in connection

with Bacardi's HAVANA CLUB rum. All of Ms. Bayer's files relating to HAVANA CLUB rum are located in Miami

C) Doug Landa, Vice President for Southern Division Sales, who works and lives in the Broward county area near Miami, coordinated sales of Bacardi's HAVANA CLUB rum, and would provide testimony about distributor and retailer perceptions of and reactions to the product. All of Mr. Landa's files relating to HAVANA CLUB rum are located in Miami.

D) Gonzalo Mengotti, Vice President for Promotions Services, who lives and works in the Miami area, supervised production of the promotional materials used for Bacardi's HAVANA CLUB rum, and would provide testimony concerning the development and distribution of those promotional materials. All of Mr. Mengotti's files relating to HAVANA CLUB rum are located in Miami.

E) Ken Sutter, Senior Vice President, Finance, who lives and works in the Miami/Broward county area, dealt with the financial issues associated with the development and marketing of the HAVANA CLUB rum, and would provide testimony concerning the financial expenditures incurred by Bacardi in connection with the development, production, advertising, and promotion of its HAVANA CLUB rum. All of Mr. Sutter's files relating to HAVANA CLUB rum are located in Miami

F) Alfredo Piedra, President & Chief Executive Officer of Bacardi Innovations, who lives and works in the Miami area, participated in certain segments of the launch of HAVANA CLUB rum and would provide testimony concerning the development of the product. All of Mr. Piedra's files relating to HAVANA CLUB rum are located in Miami.

8. It would be disruptive to the business of Bacardi if the foregoing employees were required to travel to Delaware because of this litigation. This burden would be significantly lessened if the case were transferred to the Southern District of Florida.

9. Bacardi is also likely to rely on testimony from the following employees of Bacardi's affiliates and sister companies. Again, none of these employees work or reside in Delaware:

A) Jim Goodwin, Senior Vice President and General Manager for Bacardi-Martini New Product Development, Inc., who lives and works in the Jacksonville, Florida area, was involved in the development of a flavored rum that would be made with HAVANA CLUB rum, as well as steps taken in production and distilling of a flavored rum made with Bacardi's HAVANA CLUB rum to ensure that the product is of an appropriate quality.

B) Yousef Zaatar, Vice President of Product Manufacturing Development, The Americas, Bacardi Global Packaging, for Tradall Americas, Inc., who lives and works in the Jacksonville, Florida area, was involved in the development of packaging for HAVANA CLUB rum, and would provide testimony concerning the development and design of the HAVANA CLUB rum packaging and internal impressions of that packaging.

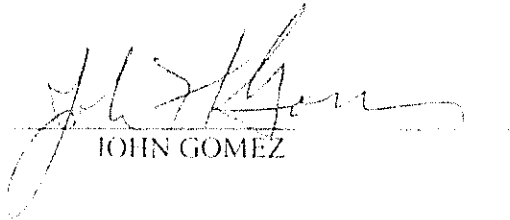
C) Luis Planas, Processing Director for Bacardi Corporation, who lives and works in San Juan, Puerto Rico, worked on the development of the rum sold as Bacardi's HAVANA CLUB rum, and will provide testimony concerning Bacardi's claim that its HAVANA CLUB rum is based on the same recipe used for the production of the HAVANA CLUB rum produced prior to 1960.

D) Pat Neal, Vice President, Corporate Communications for Bacardi-Martini, Inc who lives and works in the Miami area, headed up Bacardi's communications strategy for

HAVANA CLUB rum and made several of the statements which Plaintiff contends are false. She would provide testimony concerning those statements and the basis for those statements.

10. I am informed and believe that it would also be disruptive to the business of Bacardi's affiliates and sister companies for their employees to have to come to Delaware because of this litigation.

I hereby declare under penalty of perjury that all of the statements made by me herein are true and correct.



JOHN GOMEZ

Dated: September 12, 2006

**UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

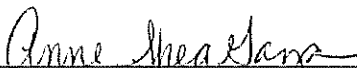
CERTIFICATE OF SERVICE

I hereby certify that on September 13, 2006, I caused to be served by hand delivery the foregoing document and electronically filed the same with the Clerk of Court using CM/ECF which will send notification of such filing(s) to the following:

Jack B. Blumenfeld
Rodger D. Smith, II
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I hereby certify that on September 13, 2006, I have sent by Federal Express the foregoing document to the following non-registered participants:

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